

## MEMORANDUM

TO: Mayor and Aldermen

FROM: Michael Brown, City Manager *Michael*

CC: Bates Lovett, City Attorney  
Jennifer N. Herman, Deputy City Attorney

DATE: July 16, 2021

RE: Development Impact Fees Executive Summary

---

Following up from the workshop held on May 24, please allow this document to serve as an Executive Summary of Georgia Impact Fees as prepared by the City Attorney's Office. We are attaching all cited law as well as a more detailed memo prepared by the Georgia Department of Community Affairs to allow you to more thoroughly "deep dive" into the subject.

### **Background/Historical Overview**

In 1990, the Georgia legislature enacted the Georgia Development Impact Fee Act ("DIFA")<sup>1</sup>, which significantly affected the way local governments in Georgia pay for public services and facilities. Impact fees are one-time fees charged to land developers to help defray the costs of expanding capital facilities to serve new growth. New development may be charged a proportionate share of capital facilities its infrastructure needs may demand.

DIFA does restrict the categories of capital facilities subject to fee assessment and establishes rules under which impact fees must be calculated, collected, expended, accounted for, and administered.<sup>2</sup> Only water, wastewater treatment, roads, stormwater management systems, park and recreation facilities, public safety, and libraries may be financed by impact fees.

Because DIFA involves planning for new capital facilities, the legislature linked the imposition of impact fees to comprehensive planning, as set forth in the Georgia Planning Act of 1989. Only cities that have adopted an approved comprehensive plan, been designated a "Qualified Local Government", and adopted an impact fee ordinance in compliance with DIFA may charge developers for "system improvements." In addition,

---

<sup>1</sup> O.C.G.A. § 36-71-1, *et seq.*

<sup>2</sup> O.C.G.A. § 36-71-2(17).

cities seeking to collect impact fees must add a “Capital Improvements Element” to their comprehensive plans.

### **Overview of Requirements/Process**

Before implementing impact fees, the City will be required to undertake and complete the following tasks:

1. Amend its comprehensive plan to add a Capital Improvements Element<sup>3</sup> to include:
  - (a) Mapped service areas for each type of public facility or service for which impact fees will be charged.
  - (b) Existing and proposed levels of service for each service area.
  - (c) A projection of facility needs (based on levels of service and growth projections in the comprehensive plan).
  - (d) A five-year schedule of needed facility improvements.
  - (e) Policy statements regarding any proposed exemptions from impact fees. Once completed, the Capital Improvements Element must be reviewed and approved by the Georgia Department of Community Affairs.

The City’s current Comprehensive Plan was last updated in 2016 and does not address the Capital Improvements Element. Currently, the MPC is working on updating the plan and expects that task to be completed in October 2021.

2. Designate a “Development Impact Fee Advisory Committee” (“DIFAC”), of which at least 50% must be drawn from the local development community. The MPC may serve as the committee provided it meets the statutory composition requirements.<sup>4</sup>
3. With input from the DIFAC, develop an ordinance that contains the actual fee schedule, which must be approved by the Department of Community Affairs prior to adoption by City Council.

---

<sup>3</sup> “Capital Improvements Element” is defined as “a component of a comprehensive plan...which sets out projected needs for system improvements during a planning horizon established in the comprehensive plan, a schedule of capital improvements that will meet the anticipated need for system improvements, and a description of anticipated funding sources for each required improvement.” O.C.G.A. § 36-71-2(2). System improvements are part of an overall public facility network that benefit the community at large. Impact fees may be assessed for system improvements on a proportionate basis. O.C.G.A. § 36-71-4(a). On the other hand, project improvements, which are public facilities that primarily benefit the specific development, are not subject to impact fees. O.C.G.A. § 36-71-8(b).

<sup>4</sup> O.C.G.A. § 36-71-5(a) and (b).

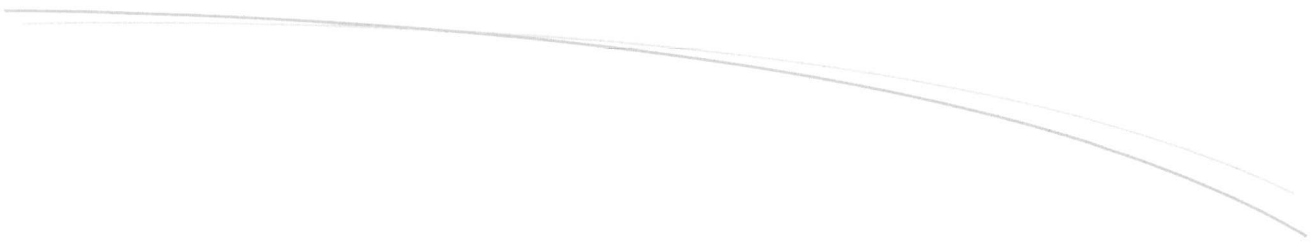
4. Conduct two duly noticed public hearings to be held with regard to the proposed ordinance. The second must occur at least two weeks after the first.

#### **Additional Considerations**

1. Following adoption of an impact fee ordinance, the City must demonstrate ongoing compliance with the proportionality requirement, meaning showing a direct benefit returned to the developer in proportion to the fee paid.
2. Impact fees must be expended in the same service area in which they are collected.
3. Impact fees not encumbered within five years of collection must be returned to the developer.
4. Developers must be given impact fee credits for any system improvements they construct.
5. Developers are entitled to appeal impact fees they consider disproportionate or unfair.
6. Impact fees may not be used to defray regular maintenance and operational expenses for any public facility, although up to 3% of all fees collected can be used to cover costs of administering the local impact fee ordinance.
7. Impact fees may not be assessed on any development for which a building permit has been issued prior to adoption of the ordinance.
8. Following adoption of an ordinance, as part of the City's annual audit process, it must prepare a report describing the amount of any impact development fees collected, encumbered, and used during the preceding year by category of public facility and service area.<sup>5</sup>
9. Unintended consequences potentially associated with the assessment of impact fees include:
  - (a) Cause potential development to relocate outside of the City/discourage development altogether, which results in the secondary lost opportunity to increase general fund tax revenues; and/or
  - (b) Mandate the refund of impact fees where development does not occur as planned and unless other funding sources are made available, the collected funds cannot be encumbered in a manner consistent with the DCA- approved plan.
10. Potential benefits include:

---

<sup>5</sup> O.C.G.A. § 36-71-8(d)(1).

- 
- (a) Promoting infill development where impact fees are kept low in existing urbanized areas to reflect that most of the public facilities needed to support new development are already in place.
  - (b) Discouraging scattered leap-frog development. Setting higher impact fees in areas on the urban periphery (to reflect the cost of providing new public facilities to support development in these areas) may discourage new developments in these areas.

If you have additional questions, please contact me.  
Thank you.

Attachments: Development Impact Fee, Dept. of Community Affairs  
§ O.C.G.A. 36-71 Development Impact Fees  
§ O.C.G.A. 110-12-2 Development Impact Fee Compliance Requirements

West's Code of Georgia Annotated

Title 36. Local Government (Refs & Annos)

Provisions Applicable to Counties and Municipal Corporations

Chapter 71. Development Impact Fees (Refs & Annos)

Ga. Code Ann., § 36-71-1

§ 36-71-1. Short title; legislative findings

[Currentness](#)

(a) This chapter shall be known and may be cited as the “Georgia Development Impact Fee Act.”

(b) The General Assembly finds that an equitable program for planning and financing public facilities needed to serve new growth and development is necessary in order to promote and accommodate orderly growth and development and to protect the public health, safety, and general welfare of the citizens of the State of Georgia. It is the intent of this chapter to:

(1) Ensure that adequate public facilities are available to serve new growth and development;

(2) Promote orderly growth and development by establishing uniform standards by which municipalities and counties may require that new growth and development pay a proportionate share of the cost of new public facilities needed to serve new growth and development;

(3) Establish minimum standards for the adoption of development impact fee ordinances by municipalities and counties; and

(4) Ensure that new growth and development is required to pay no more than its proportionate share of the cost of public facilities needed to serve new growth and development and to prevent duplicate and ad hoc development exactions.

#### Credits

Laws 1990, p. 692, § 1.

#### [Notes of Decisions \(2\)](#)

**§ 36-71-1. Short title; legislative findings, GA ST § 36-71-1**

---

Ga. Code Ann., § 36-71-1, GA ST § 36-71-1

The statutes and Constitution are current through Laws 2021, Act 27. Some statute sections may be more current, see credits for details. The statutes are subject to changes by the Georgia Code Commission.

---

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.

West's Code of Georgia Annotated

Title 36. Local Government (Refs & Annos)

Provisions Applicable to Counties and Municipal Corporations

Chapter 71. Development Impact Fees (Refs & Annos)

Ga. Code Ann., § 36-71-2

§ 36-71-2. Definitions

Effective: July 1, 2007

[Currentness](#)

As used in this chapter, the term:

(1) "Capital improvement" means an improvement with a useful life of ten years or more, by new construction or other action, which increases the service capacity of a public facility.

(2) "Capital improvements element" means a component of a comprehensive plan adopted pursuant to Chapter 70 of this title which sets out projected needs for system improvements during a planning horizon established in the comprehensive plan, a schedule of capital improvements that will meet the anticipated need for system improvements, and a description of anticipated funding sources for each required improvement.

(3) "Comprehensive plan" has the same meaning as provided for in Chapter 70 of this title.

(4) "Developer" means any person or legal entity undertaking development.

(5) "Development" means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any change in the use of land, any of which creates additional demand and need for public facilities.

(6) "Development approval" means any written authorization from a municipality or county which authorizes the commencement of construction.

(7) "Development exaction" means a requirement attached to a development approval or other municipal or county action approving or authorizing a particular development project, including but not limited to a rezoning, which requirement compels the payment, dedication, or contribution of goods, services, land, or money as a condition of approval.

(8) “Development impact fee” means a payment of money imposed upon development as a condition of development approval to pay for a proportionate share of the cost of system improvements needed to serve new growth and development.

(9) “Encumber” means to legally obligate by contract or otherwise commit to use by appropriation or other official act of a municipality or county.

(10) “Feepayer” means that person who pays a development impact fee or his successor in interest where the right or entitlement to any refund of previously paid development impact fees which is required by this chapter has been expressly transferred or assigned to the successor in interest. In the absence of an express transfer or assignment of the right or entitlement to any refund of previously paid development impact fees, the right or entitlement shall be deemed “not to run with the land.”

(11) “Governmental entity” means any water authority, water and sewer authority, or water or waste-water authority created by or pursuant to an Act of the General Assembly of Georgia.

(12) “Level of service” means a measure of the relationship between service capacity and service demand for public facilities in terms of demand to capacity ratios, the comfort and convenience of use or service of public facilities, or both.

(13) “Present value” means the current value of past, present, or future payments, contributions or dedications of goods, services, materials, construction, or money.

(14) “Project” means a particular development on an identified parcel of land.

(15) “Project improvements” means site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project and are not system improvements. The character of the improvement shall control a determination of whether an improvement is a project improvement or system improvement and the physical location of the improvement on site or off site shall not be considered determinative of whether an improvement is a project improvement or a system improvement. If an improvement or facility provides or will provide more than incidental service or facilities capacity to persons other than users or occupants of a particular project, the improvement or facility is a system improvement and shall not be considered a project improvement. No improvement or facility included in a plan for public facilities approved by the governing body of the municipality or county shall be considered a project improvement.

(16) “Proportionate share” means that portion of the cost of system improvements which is reasonably related to the service demands and needs of the project within the defined service area.

(17) “Public facilities” means:

(A) Water supply production, treatment, and distribution facilities;

(B) Waste-water collection, treatment, and disposal facilities;

(C) Roads, streets, and bridges, including rights of way, traffic signals, landscaping, and any local components of state or federal highways;

(D) Storm-water collection, retention, detention, treatment, and disposal facilities, flood control facilities, and bank and shore protection and enhancement improvements;

(E) Parks, open space, and recreation areas and related facilities;

(F) Public safety facilities, including police, fire, emergency medical, and rescue facilities; and

(G) Libraries and related facilities.

(18) “Service area” means a geographic area defined by a municipality, county, or intergovernmental agreement in which a defined set of public facilities provide service to development within the area. Service areas shall be designated on the basis of sound planning or engineering principles or both.

(19) “System improvement costs” means costs incurred to provide additional public facilities capacity needed to serve new growth and development for planning, design and construction, land acquisition, land improvement, design and engineering related thereto, including the cost of constructing or reconstructing system improvements or facility expansions, including but not limited to the construction contract price, surveying and engineering fees, related land acquisition costs (including land purchases, court awards and costs, attorneys’ fees, and expert witness fees), and expenses incurred for qualified staff or any qualified engineer, planner, architect, landscape architect, or financial consultant for preparing or updating the capital improvement element, and administrative costs, provided that such administrative costs shall not exceed 3 percent of the total amount of the costs. Projected interest charges and other finance costs may be included if the impact fees are to be used for the payment of principal and interest on bonds, notes, or other financial obligations issued by or on behalf of the municipality or county to finance the capital improvements element but such costs do not include routine and periodic maintenance expenditures, personnel training, and other operating costs.

(20) “System improvements” means capital improvements that are public facilities and are designed to provide service to the community at large, in contrast to “project improvements.”

### Credits

Laws 1990, p. 692, § 1; Laws 1992, p. 905, § 1; [Laws 2006, Act 453, § 36, eff. April 14, 2006](#); [Laws 2007, Act 232, § 1, eff. July 1, 2007](#).

### [Notes of Decisions \(5\)](#)

Ga. Code Ann., § 36-71-2, GA ST § 36-71-2

The statutes and Constitution are current through Laws 2021, Act 27. Some statute sections may be more current, see credits for details. The statutes are subject to changes by the Georgia Code Commission.

---

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.

West's Code of Georgia Annotated

Title 36. Local Government (Refs & Annos)

Provisions Applicable to Counties and Municipal Corporations

Chapter 71. Development Impact Fees (Refs & Annos)

Ga. Code Ann., § 36-71-3

§ 36-71-3. Municipalities and counties which have adopted comprehensive plan containing capital improvements element authorized to impose development impact fees

[Currentness](#)

(a) Municipalities and counties which have adopted a comprehensive plan containing a capital improvements element are authorized to impose by ordinance development impact fees as a condition of development approval on all development pursuant to and in accordance with the provisions of this chapter. After the transition period provided in this chapter, development exactions for other than project improvements shall be imposed by municipalities and counties only by way of development impact fees imposed pursuant to and in accordance with the provisions of this chapter.

(b) Notwithstanding any other provision of this chapter, that portion of a project for which a valid building permit has been issued prior to the effective date of a municipal or county development impact fee ordinance shall not be subject to development impact fees so long as the building permit remains valid and construction is commenced and is pursued according to the terms of the permit.

(c) Payment of a development impact fee shall be deemed to be in compliance with any municipal or county requirement for the provision of adequate public facilities or services in regard to the system improvements for which the development impact fee was paid.

**Credits**

Laws 1990, p. 692, § 1.

[Notes of Decisions \(6\)](#)

Ga. Code Ann., § 36-71-3, GA ST § 36-71-3

The statutes and Constitution are current through Laws 2021, Act 27. Some statute sections may be more current, see credits for details. The statutes are subject to changes by the Georgia Code Commission.

West's Code of Georgia Annotated

Title 36. Local Government (Refs & Annos)

Provisions Applicable to Counties and Municipal Corporations

Chapter 71. Development Impact Fees (Refs & Annos)

Ga. Code Ann., § 36-71-4

§ 36-71-4. Minimum standards for development impact fee ordinances

Effective: July 1, 2007

[Currentness](#)

(a) A development impact fee shall not exceed a proportionate share of the cost of system improvements, as defined in this chapter.

(b) Development impact fees shall be calculated and imposed on the basis of service areas.

(c) Development impact fees shall be calculated on the basis of levels of service for public facilities that are adopted in the municipal or county comprehensive plan that are applicable to existing development as well as the new growth and development.

(d) A municipal or county development impact fee ordinance shall provide that development impact fees shall be collected not earlier in the development process than the issuance of a building permit authorizing construction of a building or structure; provided, however, that development impact fees for public facilities described in subparagraph (D) of paragraph (17) of [Code Section 36-71-2](#) may be collected at the time of a development approval that authorizes site construction or improvement which requires public facilities described in subparagraph (D) of paragraph (17) of [Code Section 36-71-2](#).

(e) A municipal or county development impact fee ordinance shall include a schedule of impact fees specifying the development impact fee for various land uses per unit of development on a service area by service area basis. The ordinance shall provide that a developer shall have the right to elect to pay a project's proportionate share of system improvement costs by payment of development impact fees according to the fee schedule as full and complete payment of the development project's proportionate share of system improvement costs.

(f) A municipal or county development impact fee ordinance shall be adopted in accordance with the procedural requirements of [Code Section 36-71-6](#).

(g) A municipal or county development impact fee ordinance shall include a provision permitting individual assessments of

development impact fees at the option of applicants for development approval under guidelines established in the ordinance.

(h) A municipal or county development impact fee ordinance shall provide for a process whereby a developer may receive a certification of the development impact fee schedule or individual assessment for a particular project, which shall establish the development impact fee for a period of 180 days from the date of certification.

(i) A municipal or county development impact fee ordinance shall include a provision for credits in accordance with the requirements of [Code Section 36-71-7](#).

(j) A municipal or county development impact fee ordinance shall include a provision prohibiting the expenditure of development impact fees except in accordance with the requirements of [Code Section 36-71-8](#).

(k) A municipal or county development impact fee ordinance may provide for the imposition of a development impact fee for system improvement costs previously incurred by a municipality or county to the extent that new growth and development will be served by the previously constructed system improvements.

(l) A municipal or county development impact fee ordinance may exempt all or part of particular development projects from development impact fees if:

(1) Such projects are determined to create extraordinary economic development and employment growth or affordable housing;

(2) The public policy which supports the exemption is contained in the municipality's or county's comprehensive plan; and

(3) The exempt development project's proportionate share of the system improvement is funded through a revenue source other than development impact fees.

(m) A municipal or county development impact fee ordinance shall provide that development impact fees shall only be spent for the category of system improvements for which the fees were collected and in the service area in which the project for which the fees were paid is located.

(n) A municipal or county development impact fee ordinance shall provide that, in the event a building permit is abandoned, credit shall be given for the present value of the development impact fee against future development impact fees for the same parcel of land.

(o) A municipal or county development impact fee ordinance shall provide for a refund of development impact fees in accordance with the requirements of [Code Section 36-71-9](#).

(p) A municipal or county development impact fee ordinance shall provide for appeals from administrative determinations regarding development impact fees in accordance with the requirements of [Code Section 36-71-10](#).

(q) Development impact fees shall be based on actual system improvement costs or reasonable estimates of such costs.

(r) Development impact fees shall be calculated on a basis which is net of credits for the present value of revenues that will be generated by new growth and development based on historical funding patterns and that are anticipated to be available to pay for system improvements, including taxes, assessments, user fees, and intergovernmental transfers.

#### Credits

Laws 1990, p. 692, § 1; Laws 1993, p. 91, § 36; [Laws 2006, Act 453, § 36, eff. April 14, 2006](#); [Laws 2007, Act 232, § 2, eff. July 1, 2007](#).

#### [Notes of Decisions \(7\)](#)

Ga. Code Ann., § 36-71-4, GA ST § 36-71-4

The statutes and Constitution are current through Laws 2021, Act 27. Some statute sections may be more current, see credits for details. The statutes are subject to changes by the Georgia Code Commission.

---

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.

West's Code of Georgia Annotated

Title 36. Local Government (Refs & Annos)

Provisions Applicable to Counties and Municipal Corporations

Chapter 71. Development Impact Fees (Refs & Annos)

Ga. Code Ann., § 36-71-5

§ 36-71-5. Development Impact Fee Advisory Committee

Effective: July 1, 2007

[Currentness](#)

(a) Prior to the adoption of a development impact fee ordinance, a municipality or county adopting an impact fee program shall establish a Development Impact Fee Advisory Committee.

(b) Such committee shall be composed of not less than five nor more than ten members appointed by the governing authority of the municipality or county and at least 50 percent of the membership shall be representatives from the development, building, or real estate industries. An existing planning commission or other existing committee that meets these requirements may serve as the Development Impact Fee Advisory Committee.

(c) The Development Impact Fee Advisory Committee shall serve in an advisory capacity to assist and advise the governing body of the municipality or county with regard to the adoption of a development impact fee ordinance. In that the committee is advisory, no action of the committee shall be considered a necessary prerequisite for municipal or county action in regard to adoption of an ordinance.

#### Credits

Laws 1990, p. 692, § 1; [Laws 2006, Act 453, § 36, eff. April 14, 2006](#); [Laws 2007, Act 232, § 3, eff. July 1, 2007](#).

Ga. Code Ann., § 36-71-5, GA ST § 36-71-5

The statutes and Constitution are current through Laws 2021, Act 27. Some statute sections may be more current, see credits for details. The statutes are subject to changes by the Georgia Code Commission.

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.

West's Code of Georgia Annotated

Title 36. Local Government (Refs & Annos)

Provisions Applicable to Counties and Municipal Corporations

Chapter 71. Development Impact Fees (Refs & Annos)

Ga. Code Ann., § 36-71-6

§ 36-71-6. Public hearings as to proposed ordinance

Currentness

Prior to the adoption of an ordinance imposing a development impact fee pursuant to this chapter, the governing body of a municipality or county shall cause two duly noticed public hearings to be held in regard to the proposed ordinance. The second hearing shall be held at least two weeks after the first hearing.

**Credits**

Laws 1990, p. 692, § 1.

Ga. Code Ann., § 36-71-6, GA ST § 36-71-6

The statutes and Constitution are current through Laws 2021, Act 27. Some statute sections may be more current, see credits for details. The statutes are subject to changes by the Georgia Code Commission.

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.

West's Code of Georgia Annotated

Title 36. Local Government (Refs & Annos)

Provisions Applicable to Counties and Municipal Corporations

Chapter 71. Development Impact Fees (Refs & Annos)

Ga. Code Ann., § 36-71-7

§ 36-71-7. Credits against development impact fees

[Currentness](#)

(a) In the calculation of development impact fees for a particular project, credit shall be given for the present value of any construction of improvements or contribution or dedication of land or money required or accepted by a municipality or county from a developer or his predecessor in title or interest for system improvements of the category for which the development impact fee is being collected. Credits shall not be given for project improvements.

(b) In the event that a developer enters into an agreement with a county or municipality to construct, fund, or contribute system improvements such that the amount of the credit created by such construction, funding, or contribution is in excess of the development impact fees which would otherwise have been paid for the development project, the developer shall be reimbursed for such excess construction, funding, or contribution from development impact fees paid by other development located in the service area which is benefited by such improvements.

**Credits**

Laws 1990, p. 692, § 1.

[Notes of Decisions \(2\)](#)

Ga. Code Ann., § 36-71-7, GA ST § 36-71-7

The statutes and Constitution are current through Laws 2021, Act 27. Some statute sections may be more current, see credits for details. The statutes are subject to changes by the Georgia Code Commission.

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.

West's Code of Georgia Annotated

Title 36. Local Government (Refs & Annos)

Provisions Applicable to Counties and Municipal Corporations

Chapter 71. Development Impact Fees (Refs & Annos)

Ga. Code Ann., § 36-71-8

§ 36-71-8. Receipt, deposit, and expenditure of development impact fee funds; system improvement projects; audits

Effective: July 1, 2007

[Currentness](#)

(a) An ordinance imposing development impact fees shall provide that all development impact fee funds shall be maintained in one or more interest-bearing accounts. Accounting records shall be maintained for each category of system improvements and the service area in which the fees are collected. Interest earned on development impact fees shall be considered funds of the account on which it is earned and shall be subject to all restrictions placed on the use of development impact fees under the provisions of this chapter. The accounting records shall include the following information:

(1) The accounting records to be maintained shall specify the address of each property which paid development impact fees, the amount of fees paid in each category in which fees were collected, and the date that such fees were paid; and

(2) As to any exemptions granted, the accounting records to be maintained shall specify the address of each property for which exemptions were granted, the reason for which such exemption was granted, and the revenue source from which the exempt development's proportionate share of the system improvements is to be paid.

(b) Expenditures of development impact fees shall be made only for the category of system improvements and in the service area for which the development impact fee was imposed as shown by the capital improvements element and as authorized by this chapter. Development impact fees shall not be used to pay for any purpose that does not involve system improvements that create additional service available to serve new growth and development.

(c)(1) Development impact fees, collected for roads, streets, bridges, including rights of way, traffic signals, landscaping, or any local components of state or federal highways, shall be expended to fund, in whole or in part, system improvement projects:

(A) That have been identified in the capital improvements element of the municipality's comprehensive development plan; and

(B) That are chosen by a municipality after consideration of the following factors:

(i) The proximity of the proposed system improvements to developments within the service area which have generated development impact fees collected for roads, streets, bridges, including rights of way, traffic signals, landscaping, or any local components of state or federal highways; and

(ii) The proposed system improvements which will have the greatest effect on level of service for roads, streets, bridges, including rights of way, traffic signals, landscaping, or any local components of state or federal highways impacted by the developments which have paid such impact fees.

(2) Where the expenditure of development impact fees paid by a development is allocated to system improvements in the general area of such development, through an agreement between the municipality and the developer and such agreement is approved by the governing body, the analysis required by subparagraph (B) of paragraph (1) of this subsection shall not be applicable.

(3) The provisions of this subsection shall only apply to municipalities that have more than 140,000 parcels of land.

(d)(1) As part of its annual audit process, a municipality or county shall prepare an annual report describing the amount of any development impact fees collected, encumbered, and used during the preceding year by category of public facility and service area.

(2) In municipalities that have more than 140,000 parcels of land, the portion of the annual report relating to development impact fees collected for roads, streets, bridges, including rights of way, traffic signals, landscaping, or any local components of state or federal highways shall be referred to such municipality's most recently constituted Development Impact Fee Advisory Committee which shall report to the governing body of such municipality any perceived inequities in the expenditure of impact fees collected for roads, streets, bridges, including rights of way, traffic signals, landscaping, or any local components of state or federal highways.

#### Credits

Laws 1990, p. 692, § 1; [Laws 2007, Act 232, § 4, eff. July 1, 2007](#).

#### [Notes of Decisions \(1\)](#)

Ga. Code Ann., § 36-71-8, GA ST § 36-71-8

**§ 36-71-8. Receipt, deposit, and expenditure of development..., GA ST § 36-71-8**

---

The statutes and Constitution are current through Laws 2021, Act 27. Some statute sections may be more current, see credits for details. The statutes are subject to changes by the Georgia Code Commission.

---

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.

West's Code of Georgia Annotated

Title 36. Local Government (Refs & Annos)

Provisions Applicable to Counties and Municipal Corporations

Chapter 71. Development Impact Fees (Refs & Annos)

Ga. Code Ann., § 36-71-9

§ 36-71-9. Refunds of development impact fees

[Currentness](#)

Any municipality or county which adopts a development impact fee ordinance shall provide for refunds in accordance with the following provisions:

- (1) Upon the request of an owner of property on which a development impact fee has been paid, a municipality or county shall refund the development impact fee if capacity is available and service is denied or if the municipality or county, after collecting the fee when service is not available, has failed to encumber the development impact fee or commence construction within six years after the date that the fee was collected. In determining whether development impact fees have been encumbered, development impact fees shall be considered encumbered on a first-in, first-out (FIFO) basis;
- (2) When the right to a refund exists due to a failure to encumber development impact fees, the municipality or county shall provide written notice of entitlement to a refund to the feepayor who paid the development impact fee at the address shown on the application for development approval or to a successor in interest who has given notice to the municipality or county of a transfer or assignment of the right or entitlement to a refund and who has provided a mailing address. Such notice shall also be published within 30 days after the expiration of the six-year period after the date that the development impact fees were collected and shall contain the heading "Notice of Entitlement to Development Impact Fee Refund";
- (3) An application for a refund shall be made within one year of the time such refund becomes payable under paragraph (1) or (2) of this Code section or within one year of publication of the notice of entitlement to a refund under this Code section, whichever is later;
- (4) A refund shall include a refund of a pro rata share of interest actually earned on the unused or excess development impact fee collected;
- (5) All refunds shall be made to the feepayor within 60 days after it is determined by a municipality or county that a sufficient proof of claim for a refund has been made; and

(6) The feepayor shall have standing to sue for a refund under the provisions of this chapter if there has been a timely application for a refund and the refund has been denied or has not been made within one year of submission of the application for refund to the collecting municipality or county.

#### Credits

Laws 1990, p. 692, § 1.

Ga. Code Ann., § 36-71-9, GA ST § 36-71-9

The statutes and Constitution are current through Laws 2021, Act 27. Some statute sections may be more current, see credits for details. The statutes are subject to changes by the Georgia Code Commission.

---

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.

West's Code of Georgia Annotated

Title 36. Local Government (Refs & Annos)

Provisions Applicable to Counties and Municipal Corporations

Chapter 71. Development Impact Fees (Refs & Annos)

Ga. Code Ann., § 36-71-10

§ 36-71-10. Administrative appeals; arbitration

[Currentness](#)

(a) A municipality or county which adopts a development impact fee ordinance shall provide for administrative appeals to the governing body or such other body as designated in the ordinance of a determination of the development impact fees for a particular project.

(b) A developer may pay a development impact fee under protest in order to obtain a development approval or building permit, as the case may be. A developer making such payment shall not be estopped from exercising the right of appeal provided by this chapter, nor shall such developer be estopped from receiving a refund of any amount deemed to have been illegally collected.

(c) A municipality or county development impact fee ordinance may provide for the resolution of disputes over the development impact fee by binding arbitration through the American Arbitration Association or otherwise.

**Credits**

Laws 1990, p. 692, § 1.

Ga. Code Ann., § 36-71-10, GA ST § 36-71-10

The statutes and Constitution are current through Laws 2021, Act 27. Some statute sections may be more current, see credits for details. The statutes are subject to changes by the Georgia Code Commission.

---

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.

West's Code of Georgia Annotated

Title 36. Local Government (Refs & Annos)

Provisions Applicable to Counties and Municipal Corporations

Chapter 71. Development Impact Fees (Refs & Annos)

Ga. Code Ann., § 36-71-11

§ 36-71-11. Intergovernmental agreements

[Currentness](#)

Municipalities and counties which are jointly affected by development are authorized to enter into intergovernmental agreements with each other, with authorities, or with the state for the purpose of developing joint plans for capital improvements or for the purpose of agreeing to collect and expend development impact fees for system improvements, or both, provided that such agreement complies with any applicable state laws.

**Credits**

Laws 1990, p. 692, § 1.

Ga. Code Ann., § 36-71-11, GA ST § 36-71-11

The statutes and Constitution are current through Laws 2021, Act 27. Some statute sections may be more current, see credits for details. The statutes are subject to changes by the Georgia Code Commission.

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.

West's Code of Georgia Annotated

Title 36. Local Government (Refs & Annos)

Provisions Applicable to Counties and Municipal Corporations

Chapter 71. Development Impact Fees (Refs & Annos)

Ga. Code Ann., § 36-71-12

§ 36-71-12. Effect on existing laws, ordinances, or resolutions

Currentness

This chapter shall not repeal any existing laws authorizing a municipality or county to impose fees or require contributions or property dedications for capital improvements; provided, however, that all local ordinances or resolutions imposing development exactions for system improvements on April 4, 1990, shall be brought into conformance with this chapter no later than November 30, 1992.

**Credits**


Laws 1990, p. 692, § 1; Laws 1992, p. 905, § 2.

Ga. Code Ann., § 36-71-12, GA ST § 36-71-12

The statutes and Constitution are current through Laws 2021, Act 27. Some statute sections may be more current, see credits for details. The statutes are subject to changes by the Georgia Code Commission.

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.

 KeyCite Yellow Flag - Negative Treatment  
Proposed Legislation

[West's Code of Georgia Annotated](#)

[Title 36. Local Government \(Refs & Annos\)](#)

[Provisions Applicable to Counties and Municipal Corporations](#)

[Chapter 71. Development Impact Fees \(Refs & Annos\)](#)

Ga. Code Ann., § 36-71-13

§ 36-71-13. Construction

[Currentness](#)

(a) Nothing in this chapter shall prevent a municipality or county from requiring a developer to construct reasonable project improvements in conjunction with a development project.

(b) Nothing in this chapter shall be construed to prevent or prohibit private agreements between property owners or developers and municipalities, counties, or other governmental entities in regard to the construction or installation of system improvements and providing for credits or reimbursements for system improvement costs incurred by a developer including interproject transfers of credits or providing for reimbursement for project improvement costs which are used or shared by more than one development project.

(c) Nothing in this chapter shall limit a municipality, county, or other governmental entity which provides water or sewer service from collecting a proportionate share of the capital cost of water or sewer facilities by way of hook-up or connection fees as a condition of water or sewer service to new or existing users, provided that the development impact fee ordinance of a municipality or county or other governmental entity that collects development impact fees pursuant to this chapter shall include a provision for credit for such hook-up or connection fees collected by the municipality or county to the extent that such hook-up or connection fee is collected to pay for system improvements. Imposition of such hook-up or connection fees by any governmental entity to pay for system improvements either existing or new shall be consistent with the capital improvement element of the comprehensive plan and shall be subject to the approval of each county, municipality, or combination thereof which appoints the governing body of such entity. The adoption, imposition, collection, and expenditure of such fees for system improvements by any governmental entity shall be subject to the same procedures applicable to the adoption, imposition, collection, and expenditure of development impact fees by a county.

(d) Nothing in this chapter shall apply to a water authority created by Act of the General Assembly, as long as such authority is not established as a political subdivision of the State of Georgia but instead acts subject to the approval of a county governing authority.

#### Credits

Laws 1990, p. 692, § 1; Laws 1991, p. 94, § 36; Laws 1992, p. 905, § 3.

[Notes of Decisions \(1\)](#)

Ga. Code Ann., § 36-71-13, GA ST § 36-71-13

The statutes and Constitution are current through Laws 2021, Act 27. Some statute sections may be more current, see credits for details. The statutes are subject to changes by the Georgia Code Commission.

---

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.

## Development Impact Fees

### What is it?

New development creates a demand for additional schools, roads, sewer lines, and recreational facilities. Development impact fees are one-time fees charged to new development that are used to defray some of the costs of providing these additional public facilities. In addition to offering your local government a valuable source of revenue, impact fees help ensure that new development pays for the public facilities it requires, rather than these costs being borne by all taxpayers in the community.

Development impact fees can also create a strong financial incentive to discourage inefficient land development patterns by:

- Promoting infill development. Infill development will be encouraged if impact fees are kept low in existing urbanized areas to reflect the fact that most of the public facilities needed to support new development are already in place.
- Discouraging scattered leap-frog development. Setting higher impact fees higher in areas on the urban periphery (to reflect the cost of providing new public facilities to support development in these areas) will discourage new development in these areas.

### How to do it

1. **Become familiar with the state's impact fee requirements.** In Georgia, use of impact fees by local governments is subject to the very explicit requirements of the Georgia Development Impact Fee Act (O.C.G.A. 36-71). (Refer to the 'Other resources' section of GQGP quality growth tool: Development Impact Fees). Many communities choose to hire a consultant to assist with developing the local impact fee program. If you chose to hire a consultant, check qualifications and references from other impact fee work in Georgia.
2. **Involve key stakeholders.** Decide which groups or individuals in your community are most likely to be affected by (or might oppose) implementation of impact fees and invite them to participate in the process of developing the program. It is particularly important to seek the involvement and cooperation of any separate agencies or authorities that provide critical public facilities and services within your jurisdiction. Decide which local, regional, or state agencies might eventually build public facilities in your community. Don't forget the school board, development authorities, or agencies that provide local water and sewer service (if separate from your local government). Identify the individuals who make facility location decisions for these agencies and establish regular opportunities to meet with these key decision makers.

You are required to appoint an advisory committee of these key stakeholders to guide development and ongoing implementation of the local impact fee program. This committee must include 40% representation from the local development community.

3. **Identify services to be covered by impact fees.** Remember that you are limited to the seven types of services listed above. It is best to choose services for which you anticipate major capital costs over the next five to ten years that cannot be covered from normal funding sources.
4. **Establish desired development patterns.** Review the future land use section of your community's comprehensive plan to identify the development patterns (types and locations of development) that your community is seeking to achieve. Also review the plan to identify land areas that should be set aside from development in order to protect critical environmental resources such as scenic areas, historic properties, or prime agricultural lands. If you feel that the comprehensive plan does not provide enough guidance on future development patterns, you may want to utilize a community involvement process and amend the plan to reflect preferred development patterns.
5. **Strategically identify service areas.** Service areas are districts where a uniform level of service (e.g., library space per resident, maximum daily traffic volume on roadways) will be maintained. The community's desired development patterns should be carefully considered in drawing service area boundaries. See *Using Impact Fees to Promote Desired Development Patterns* (refer to the 'Other Resources' section of GQGP quality growth tool: Development Impact Fees). For some services, such as water supply and wastewater treatment, engineering principles (water can't flow uphill) will play a critical role in drawing service area boundaries. Service areas will typically vary for different types of services. For instance, you might have a single, community-wide service area for recreation, but have several service areas for wastewater treatment.
6. **Determine levels of service.** For each service type and service area, document existing service levels and consider whether these levels are adequate. Establish target levels of service based on adequacy of existing service or careful consideration of the community's desired development patterns. See *Using Impact Fees to Promote Desired Development Patterns* (refer to the 'Other Resources' section of GQGP quality growth tool: Development Impact Fees). Identify areas with service deficiencies (between current service levels and target levels) and excess service capacity (where service levels currently exceed target levels).
7. **Develop a schedule of improvements.** For each service type, use growth projections for the service areas to identify new facilities or expansions that

will be needed to provide the target levels of service. In addition to identifying projects in newly developing areas, be sure to consider projects needed to make up service level deficiencies in already developed areas of the community. Work with the advisory committee and affected local officials to prioritize the identified projects. Include the selected projects in a five-year schedule of system improvements that:

- lists projects by service area
- identifies start and completion dates for each project
- estimates total project costs
- identifies funding sources for each project, including the percentage of project cost to be paid from impact fees.

8. **Develop an impact fee ordinance.** Use the schedule of improvements and growth projections for each service area to establish the impact fees to be charged for each type of service. If you have just built major public facilities that resulted in excess service capacity, consider whether to recoup the costs of these facilities via impact fees. Consult with the advisory committee in preparing an impact fee ordinance and fee schedule. The ordinance should specify administrative procedures for collecting and accounting for fees and list any exemptions to fees to be granted for projects with extraordinary economic benefits or affordable housing components (see O.C.G.A. 36-71-4(l) for restrictions on exemptions).
9. **Adopt the impact fee ordinance.** Complete a Capital Improvement Element (CIE) that includes the schedule of improvements and explains your decisions on service areas and levels of service. After holding required public hearings (see O.C.G.A. 36-71-6), submit the CIE to the Georgia Department of Community Affairs for review and approval. Once the CIE is approved, your local government may adopt the CIE and impact fee ordinance. (Note: the CIE must be adopted prior to adoption of the impact fee ordinance.)
10. **Update the CIE annually.** Once the CIE and impact fee ordinance are officially adopted, your community is free to start collecting impact fees. But keep in mind that you will need to submit annual updates of the CIE to the Georgia Department of Community Affairs, including a brief report on fees collected and expended during the past year and a new schedule of improvements identifying capital projects five years into the future. It will also be necessary to periodically reevaluate your fee structures if major public facility costs or demands change.

### **Things to consider before using this tool**

- Impact fees can have unintended consequences. The fees will typically increase the cost of new housing and other developments, since developers will raise sales prices in order to recover impact fees paid to local governments. High impact fees can put your community at a disadvantage in

attracting new development and could shift development to neighboring cities or counties. Keep in mind, however, that impact fees do not have to be set to reflect the total cost of providing public facilities to new development the fees can legally be set at any level less than this total cost, if this is more feasible for your community. In setting fees, consider what the market will bear without discouraging growth, but balance this against the desirability of using the fees to promote the community's desired development patterns. See Using Impact Fees to Promote Desired Development Patterns (refer to the 'Other Resources' section of GQGP quality growth tool: Development Impact Fees).

- Developing impact fee systems for certain types of services can be more complicated than others. For example, recreation, libraries, police, EMS, water supply and wastewater treatment are generally easier than fire, roads and bridges, and stormwater management. This difference arises from greater difficulty in collecting data or more complex analysis required to assign each development's fair share of the costs. Some communities choose to start with a few of the easier categories and add impact fees for more complex types of services later, once administrative systems are working smoothly and revenues are flowing in.
- Ensure that your local impact fee program is consistent with the local comprehensive plan. Also check that your designated impact fee service areas do not conflict with service areas agreed to in the county service delivery strategy. Make amendments where necessary. This will strengthen the legal status of your impact fee program and help ensure consistency of other local activities.
- If your impact fee program is designed to encourage infill development, be sure to update your land use regulations to accommodate this infill development. If land use codes are not adjusted to permit greater densities and mix of uses, your regulations will be working at cross-purposes and will not be effective in guiding local development patterns as desired.

## **Using Impact Fees to Promote Desired Development Patterns**

Impact fees can help achieve a community's desired development patterns, but only if service areas and target levels of service are established with care. It's important to design the system so that impact fees are low in areas the community would like to see developed (or redeveloped at higher densities), higher in areas where development is less desirable, and higher still in critical resource areas that should be set aside from any development. This can be accomplished by establishing separate service areas for these three types of areas and determining target levels of service, distribution of excess service capacity, and planned facility improvements so that impact fees differ between service areas as desired. The following examples illustrate how this may be accomplished: (Note: In all cases, differences in fees between service areas will need to be justified by adopting supporting policies in the local comprehensive plan. This will help protect your community from litigation on equity issues.)

### **Example 1:**

An area where infill development is desired could be designated as a separate service area that includes facilities with excess service capacity, or where a relatively low target level of service has been established, to ensure low impact fees. Conversely, a "floodplain" service area where development is not desired could be assigned a very high target level of service in order to ensure high impact fees.

### **Example 2:**

A community seeking to promote orderly, gradual expansion of its urbanized area might establish three separate, concentric service areas: the urban infill area, the planned development area, and the rural conservation area:

1. Within the urban infill area, impact fees could be waived to encourage infill development in the area where excess sewer distribution capacity already exists.
2. Developments in the planned development area would be required to pay impact fees set to recover a portion (less than 100%) of the community's cost of expanding public facilities to serve new development in this area.
3. New development in the rural conservation area would be strongly discouraged by charging developers 100% of the local government's cost of new facilities or expansions needed to serve development in this area.

With time, as the planned development area is built out, it will be necessary to redraw these service area boundaries (preferably in conjunction with regular updates of the local comprehensive plan), expanding the size of the planned development area to allow continuing gradual expansion of the urbanized area.

### **Example 3:**

A community seeking to discourage leap-frog development, far from existing service areas, might establish two service areas: the existing service area and the rural conservation area. The community might also use regular user fees in conjunction with impact fees to strengthen the disincentive for far-flung development. To illustrate, consider how this approach might work for sewer service. The costs of providing sewer service to a new development usually include: (1) the capital costs of providing the sewage treatment capacity, including either expanding existing plants or building new facilities (2) the capital costs of building new sanitary sewer lines to extend service to the new development project, (3) the operation and maintenance costs of the sewage treatment facilities, and (4) the cost of operation and maintenance of the sewer lines serving the new development project.

1. *Capital costs of the central treatment facility.* These costs would be recovered through an impact fee charged to all new development served by the treatment facility. Fees levied on a new subdivision development would be based on the treatment capacity it would be expected to consume on a daily basis. For example, a city might calculate, based on existing records, that a typical residential home requires treatment of 2,000 gallons of wastewater per day. If the cost of providing this treatment capacity is \$1000, a new subdivision proposed to have 100 new houses would pay a per-house capacity charge of \$1,000 or \$1,000,000 for the whole development. Commercial and industrial developments would also pay capacity fees based on the projected treatment capacity used.
2. *Capital costs of building sewer lines to extend service to a new development project.* If our 100-unit subdivision were to locate in the rural conservation area, an additional impact fee would be added to reflect the additional cost of extending new distribution lines and lift stations, to serve the development. Thus, if a total of \$1,000,000 of sewer line extensions and lift stations are required to serve the area where the new development is to locate, and these facilities are projected to eventually serve a total of 1000 homes in the area, the additional fee per home built in this area would be \$1,000. Each home in our 100-unit subdivision would be charged this additional fee, for a total impact fee assessment of \$2,000 per home.
3. *Routine operation and maintenance expenses for the central treatment facility.* These include the staff, administration, chemicals, electricity, testing, and other routine operational expenses. These costs cannot be recovered through impact fees, but instead are typically recovered through monthly service charges to each utility customer. If costs run \$1.20 per gallon per year, the monthly service fee would be a uniform \$10 per month for each home served by the facility. This would be the same regardless of where the home is located.
4. *Routine operation and maintenance expenses for line extensions.* These include cost of repair, replacement, rehabilitation and routine servicing (clean out, testing etc.) of the line extensions and lift stations required to serve new

development located in the rural conservation area. If maintenance and servicing of these facilities costs \$12,000 per year, the additional monthly charge to the projected 1000 new homes in the service area would be \$10, added to the standard \$10 monthly fee calculated above.

## Georgia Development Impact Fee Act (GDIFA)

### Overview of Requirements

GDIFA specifies that impact fees can be charged only for seven types of public facilities or services:

- Libraries
- Recreation
- Water supply
- Roads and bridges
- Public safety (police, jails, fire and EMS)
- Wastewater treatment
- Stormwater management

A local government must address the following requirements before implementing impact fees:

- Amend its comprehensive plan to add a Capital Improvements Element that includes the following:
  1. Mapped service areas for each type of public facility or service for which impact fees will be charged.
  2. Existing and proposed levels of service for each service area.
  3. A projection of facility needs (based on levels of service and growth projections in the comprehensive plan).
  4. A five-year schedule of needed facility improvements.
  5. Policy statements regarding any proposed exemptions from impact fees.

Once completed, the Capital Improvements Element must be reviewed and approved by the Georgia Department of Community Affairs.

- Adopt an impact fee ordinance that spells out the actual fee schedule.

GDIFA distinguishes between project improvements and system improvements:

- **Project improvements** are public facilities that primarily benefit specific developments. Developers may be required to bear the entire expense of project improvements, provided this is clearly specified in local development ordinances.
- **System improvements** are part of the overall public facility network that benefits the community at large. Developers may only be charged impact fees for their proportionate share of system improvements.

- **Impact fees** may not be used to defray regular maintenance and operational expenses for any public facility, although up to 3% of all fees collected can be used to cover costs of administering the local impact fee ordinance.

Other GDIFA's provisions:

1. Communities charging impact fees must be able to demonstrate a direct benefit returning to the developer that is proportionate to the fee he pays.
2. Impact fees must be expended in the same service areas where they are collected.
3. Impact fees not encumbered within five years of collection must be returned to the developer.
4. Developers must be given impact fee credits for any system improvements they construct.
5. Developers are entitled to appeal impact fees they consider disproportionate or unfair.

## Additional Information on Using Public Facilities to Manage Growth

### Background

- Does your community frequently find itself playing catch-up in providing public facilities and infrastructure to areas where new development is occurring?
- Are the costs of providing new public services for new developments causing a strain on public coffers?
- Is new development taking place in areas that your community would have preferred to see develop at a later time, or perhaps not at all -- such as environmentally sensitive areas or important farming areas?

If your community is like the typical Georgia city or county, development is taking place with little local government control of the timing, location and scale of these new developments. There are good reasons why this situation is not desirable:

- With limited predictability to when or where the next development will take place, the local government will have difficulty planning for the future development of the community or effectively managing development-related environmental impacts. This can lead to the kind of unplanned development known as "urban sprawl."
- Studies have shown that it is more expensive to provide public facilities and services to developments that have sprung up in a haphazard, or leap-frog manner. Your local government can save money by gradually expanding service from existing service areas in a rational and well-planned manner.
- As long as the local government is in a position of reacting to new developments, it is difficult to anticipate and budget for the costs of providing needed new public facilities.

The comprehensive public facility management approaches described herein are designed to put your local government in a position to *guide* rather than *react to* the location of new development. Even if your community is not facing intense growth pressures, you may find some of these approaches useful for attracting the growth the community desires.

West's Georgia Administrative Code

Title 110. Georgia Department of Community Affairs

Subtitle 110-12. Minimum Standards and Procedures

Chapter 110-12-2. Development Impact Fee Compliance Requirements

Ga Comp. R. & Regs. 110-12-2-.01

110-12-2-.01. Purpose.

Currentness

**(1) General:** The Georgia Development Impact Fee Act ([O.C.G.A. § 36-71-1 et seq.](#)), passed during the 1990 session of the General Assembly, sets certain conditions, related to comprehensive planning, which must be met by local governments before an impact fee ordinance can be implemented. The Act requires local governments wishing to impose development impact fees to adopt a comprehensive plan which meets the Minimum Standards and Procedures for Local Comprehensive Planning and which contains the additional planning components outlined at 110-12-2-.03.

**(2) Applicability:** The comprehensive planning requirements listed in this chapter apply to all local governments intending to implement a development impact fee ordinance pursuant to the Georgia Development Impact Fee Act.

**(3) Effective Date:** Unless otherwise provided for herein, the planning requirements contained in this chapter shall have an effective date of May 1, 1997, at which time the rules that were adopted for this purpose by the Board of Community Affairs in 1991 shall stand repealed.

#### Credits

Adopted May 1, 1997.

AUTHORITY: [O.C.G.A. Sec. 50-8-7.](#)

Current with amendments available through May 6, 2021.

Ga Comp. R. & Regs. 110-12-2-.01, GA ADC 110-12-2-.01

---

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.

West's Georgia Administrative Code

Title 110. Georgia Department of Community Affairs

Subtitle 110-12. Minimum Standards and Procedures

Chapter 110-12-2. Development Impact Fee Compliance Requirements

Ga Comp. R. & Regs. 110-12-2-.02

110-12-2-.02. Definitions.

Currentness

**(1) General:** For the purposes of this chapter, the following words shall have the meaning as contained herein unless the context does not permit such meaning. Terms not defined in this chapter but defined in [O.C.G.A. § 36-71-1 et seq.](#), shall have the meanings contained in [O.C.G.A. § 36-71-1 et seq.](#) Terms not defined in this chapter, nor in [O.C.G.A. § 36-71-1 et seq.](#), shall have ascribed to them ordinary accepted meanings such as the context may imply.

**(2) Definitions:**

(a) 'Capital Improvement' means an improvement with a useful life of ten years or more, by new construction or other action, which increases the service capacity of a public facility.

(b) 'Capital Improvements Element' means a component of a comprehensive plan adopted pursuant to [O.C.G.A. § 50-8-1 et seq.](#) which sets out projected needs for system improvements during a planning horizon established in the comprehensive plan, a schedule of capital improvements that will meet the anticipated need for system improvements, and a description of anticipated funding sources for each required improvement.

(c) 'Comprehensive Plan' means a 20-year plan by a county or municipality covering such county or municipality or any plan by a regional development center covering the center's region proposed or prepared pursuant to the minimum standards and procedures for preparation of comprehensive plans and for implementation of comprehensive plans, established by the department in accordance with [O.C.G.A. 50-8-7.1\(b\)](#) and [50-8-7.2](#).

(d) 'Development Impact Fee' means a payment of money imposed upon development as a condition of development approval to pay for a proportionate share of the cost of system improvements needed to serve new growth and development.

(e) 'Level of Service' means a measure of the relationship between service capacity and service demand for public facilities in terms of demand to capacity ratios or the comfort and convenience of use or service of public facilities, or both.

(f) 'Project Improvements' means site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project and are not system improvements. The character of the improvement shall control a determination of whether an improvement is a project improvement or system improvement, and the physical location of the improvement on-site or off-site shall not be considered determinative of whether an improvement is a project improvement or a system improvement. If an improvement or facility provides or will provide more than incidental service or facilities capacity to persons other than users or occupants of a particular project, the improvement or facility is a system improvement and shall not be considered a project improvement. No improvement or facility included in a plan for public facilities approved by the governing body of the municipality or county shall be considered a project improvement.

(g) 'Public Facilities' means:

1. Water supply production, treatment and distribution facilities;
2. Wastewater collection, treatment and disposal facilities;
3. Roads, streets and bridges, including rights of way, traffic signals, landscaping and any local components of state or federal highways;
4. Stormwater collection, retention, detention, treatment and disposal facilities, flood control facilities, and bank and shore protection and enhancement improvements;
5. Parks, open space and recreation areas, and related facilities;
6. Public safety facilities, including police, fire, emergency medical and rescue facilities; and
7. Libraries and related facilities.

(h) 'Service Area' means a geographic area defined by a municipality, county or intergovernmental agreement in which a defined set of public facilities provides service to development within the area. Service areas shall be designated on the basis of sound planning or engineering principles, or both.

(i) 'System Improvements' means capital improvements that are public facilities and are designed to provide service to the

community at large, in contrast to 'project improvements!

**Credits**

Adopted May 1, 1997.

AUTHORITY: [O.C.G.A. Sec. 50-8-7](#).

Current with amendments available through May 6, 2021.

Ga Comp. R. & Regs. 110-12-2-.02, GA ADC 110-12-2-.02

---

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.

West's Georgia Administrative Code

Title 110. Georgia Department of Community Affairs

Subtitle 110-12. Minimum Standards and Procedures

Chapter 110-12-2. Development Impact Fee Compliance Requirements

Ga Comp. R. & Regs. 110-12-2-.03

110-12-2-.03. Comprehensive Planning Requirements.

Currentness

**(1) Purpose:** Linking the implementation of a local development impact fee ordinance to the comprehensive planning process ensures that projected needs for system improvements are consistent with the needs and goals identified in the various other elements of the comprehensive plan. In addition, the identification of projected capital facilities needs based on levels of service established in the comprehensive plan provides a sound foundation for the calculation of impact fees.

**(2) Application:** The comprehensive planning requirements for compliance with the Georgia Development Impact Fee Act shall consist of: (1) development of a Capital Improvements Element (CIE); (2) a policy statement in support of certain exemptions, as determined by the local government; (3) annual update of the CIE; and (4) amendment of the CIE as necessary.

**(a) Capital Improvements Element:** The Capital Improvements Element shall include, but not be limited to, the following items:

**1. Projection of Needs:** A projection of needs for system improvements during a planning horizon established in the comprehensive plan. To ensure consistency, the time frame used for projecting infrastructure needs shall coincide with the planning horizon used for the remainder of the comprehensive plan.

**2. Schedule of Improvements:** A schedule of capital improvements intended to meet the projected needs for system improvements identified in the comprehensive plan. At a minimum, improvements shall be scheduled over a five-year period, coinciding with the initial Short Term Work Program developed in the comprehensive plan. Thereafter, local governments shall annually update and maintain, at a minimum, a five-year schedule of system improvements within the Capital Improvements Element of their comprehensive plans.

**3. Description of Funding Sources:** A description of anticipated funding sources for each required improvement.

**4. Designation of Service Areas and Levels of Service:** The designation of one or more service areas within the

community and the assignment of levels of service for public facilities within each service area. Once assigned to each service area, levels of service shall be used as the basis for calculating impact fees.

**(b) Policy Statement for Exemptions:** Local governments wishing to exempt all or portions of particular development projects from impact fees for the purposes of encouraging economic development and employment growth or affordable housing must include in the comprehensive plan a policy statement supporting such exemptions and must fund system improvements supporting such projects through revenue sources other than development impact fees.

**(c) Annual Update of the CIE:** Local governments which include CIEs in their comprehensive plans must update their entire Short Term Work Programs annually as specified at 110-12-1-.04(7)(a), Minimum Standards and Procedures for Local Comprehensive Planning, and CIE Updates must be submitted for review concurrently with these Short Term Work Program updates in accordance with the procedures outlined at 110-12-2-.04(9). CIE updates must include: 1) the Annual Report on impact fees required under [O.C.G.A. 36-71-8](#); and 2) a new fifth year schedule of improvements, and any changes to or revisions of previously listed CIE projects, including alterations in project costs, proposed changes in funding sources, construction schedules, or project scope.

**(d) Amendments to the CIE:** The CIE must be amended in accordance with the procedures outlined at 110-12-2-.04(10) whenever it is necessary for a local government to:

1. Redefine growth projections, land use assumptions or community goals that would affect system improvements proposed in the CIE;
2. Add new impact fee service areas or change the boundaries of existing impact fee service areas;
3. Change service levels established for an existing impact fee service area; or
4. Make any other revisions that might have a negative effect or major impact on another jurisdiction or authority.

**(3) Support:** The department will provide municipalities, counties and regional development centers with general guidance regarding the preparation of the required Capital Improvements Element and its incorporation into the comprehensive plan.

#### Credits

Adopted May 1, 1997.

AUTHORITY: [O.C.G.A. Sec. 50-8-7](#).

Current with amendments available through May 6, 2021.

Ga Comp. R. & Regs. 110-12-2-.03, GA ADC 110-12-2-.03

---

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.

West's Georgia Administrative Code

Title 110. Georgia Department of Community Affairs

Subtitle 110-12. Minimum Standards and Procedures

Chapter 110-12-2. Development Impact Fee Compliance Requirements

Ga Comp. R. & Regs. 110-12-2-.04

110-12-2-.04. Procedural Requirements.

Currentness

**(1) General:** Pursuant to [O.C.G.A. 50-8-7.1\(b\)](#), the Department has established minimum procedural standards for use in the process of developing a CIE. The following procedures are to be used in the preparation, submittal, review, adoption, update, and amendment of a CIE for one of the categories of public facilities described under [O.C.G.A. 36-71-2](#).

**(2) Compliance with Standards:** All local governments intending to implement a development impact fee ordinance pursuant to [O.C.G.A. 36-71-1](#) shall prepare, submit for review, and subsequently adopt a CIE that meets these planning standards and procedures on or before the date their impact fee ordinance goes into effect.

**(3) Public Participation:** All local governments must hold a minimum of two public hearings prior to the submittal of their draft CIE to the regional development center for review.

(a) At least one public hearing must be held prior to the development of the CIE to inform the public about the purpose of the CIE and the process to be followed in the preparation of the CIE, as well as to elicit community input on needs and goals. Local governments should follow the public hearing notification procedures they normally use in announcing and conducting public hearings.

(b) At least one additional hearing must be held just prior to the submittal of the draft CIE to the regional development center for review. The purpose of this hearing is to brief the community on the contents of the draft CIE, to provide an opportunity for residents to make suggestions, additions or revisions, and to notify the community of when the draft CIE will be submitted to the regional development center for review.

**(4) CIE Submittal:** The governing body of the submitting local government must take official action, by resolution, authorizing the transmittal of the draft CIE to the regional development center for review and certifying that the minimum public participation requirements have been met.

**(5) Review by Regional Development Center and the Department:** The Department shall review local CIEs for

compliance with the Development Impact Fee Compliance Requirements. The regional development center shall review CIEs for internal consistency and for any conflicts with plans of local governments within the region, plans of contiguous local governments outside the region, or any regional plans. The procedures to be used in reviewing local CIEs are as follows:

(a) Within ten days after receipt of a draft CIE, the regional development center shall notify the parties listed at 1. through 3., below, of the availability of the CIE for review and comment. This notification shall include, at a minimum, the name(s) of the submitting local government(s), the date of CIE submittal and the general nature of the CIE. Notice shall be provided to:

1. Local governments within the region that are contiguous to the submitting local government, and other local governments within the region that are likely to be affected by the CIE;
2. Local governments outside the region that are contiguous to the submitting local government, and their regional development center(s); and
3. Affected state agencies and the Department.

(b) Within 15 days after notifying the parties listed above, the regional development center shall conduct a hearing at which any local government, regional development center or state agency may present its views on the submitted CIE. The rules for conducting such hearings must be adopted by the board of directors of the regional development center and approved by the Department.

(c) Within 40 days of the date the CIE was originally submitted to the regional development center for review, the Department will provide the regional development center with its findings regarding its review of the CIE for compliance with the Development Impact Fee Compliance Requirements.

(d) Within 50 days of the date the CIE was originally submitted to the regional development center for review, the regional development center must complete its review of the draft CIE and transmit its report of findings and recommendations to the local government. The regional development center's report shall combine the findings of the Department and the regional development center, to include:

1. a copy of the Department's findings from its review of the CIE for compliance with the Development Impact Fee Compliance Requirements;
2. a summary of the regional review hearing on the CIE, detailing any significant issues raised at the hearing or any written comments submitted by parties that reviewed the draft CIE;

3. the regional development center's findings from its review of the draft CIE for: internal consistency, conflicts, or opportunities for cooperation with other governments; and

4. the regional development center's recommendations for addressing any findings identified in its review of the draft CIE.

(e) A complete copy of the regional development center's report of findings and recommendations must be sent to the Department at the same time it is mailed to the local government.

(f) Within ten days after the regional development center's recommendation is made public, a submitting local government that disagrees with the recommendation may petition the regional development center for a "reconsideration hearing." This hearing shall be scheduled and held by the regional development center within 15 days after receipt of such a request. Within ten days after the reconsideration hearing, the Department and the regional development center shall either continue or modify their original recommendations and provide written notice of the decision to the submitting local government.

(g) Informal or formal mediation of conflicts relating to CIEs may be initiated in accordance with the Rules of Mediation of Interjurisdictional Conflicts adopted by the Board of Community Affairs.

(h) In no event shall a local government take any official action to adopt or put into effect a CIE prepared in accordance with the Development Impact Fee Compliance Requirements until at least 60 days after the CIE is first submitted to the regional development center for review. In cases where reconsideration is requested, the period shall be a minimum of 90 days.

(i) The regional development center shall notify the Department within seven days after being notified that the CIE prepared in accordance with the Development Impact Fee Compliance Requirements has been adopted.

(6) Local Government Action:

(a) If the Department determines that the CIE meets the Development Impact Fee Compliance Requirements, the local government may:

1. Adopt the CIE as submitted if no suggestions for improvement are made by the regional development center; or

2. Adopt the CIE, with or without any suggested improvements made by the regional development center.

3. In no event, however, shall a local government adopt a CIE that meets the Development Impact Fee Compliance Requirements until at least 60 days after the CIE is submitted to the regional development center for review.

(b) If the Department determines that the CIE does not meet the Development Impact Fee Compliance Requirements, the local government may:

1. Revise the CIE based upon the Department's comments and submit the proposed revisions to the regional development center for review;
2. Disagree with the recommendation and request a reconsideration hearing; or
3. Disagree with the recommendation and adopt the CIE as originally submitted. However, for a local government to be in compliance with the Development Impact Fee Act, the CIE adopted must be approved by the Department as meeting the Development Impact Fee Compliance Requirements.

**(7) Local CIE Adoption:** The governing body of the submitting local government shall notify the regional development center, in writing, within seven days of the adoption of the CIE prepared in accordance with the Development Impact Fee Compliance Requirements. No such adoption shall occur until 60 days after the CIE is first submitted to the regional development center for review, or 90 days if reconsideration is requested.

**(8) Department Action:** Once the Department has been notified by the regional development center that a local government has adopted a CIE in accordance with the Development Impact Fee Compliance Requirements, the Department may issue a letter certifying the submitting local government as being in compliance with the Development Impact Fee Act. To retain this certification, a local government must remain in compliance with the requirements outlined in these Development Impact Fee Compliance Requirements.

**(9) Updates to CIEs and Short Term Work Programs:** Annual CIE and Short Term Work Program updates as described at 110-12-2-.03(2)(c), Comprehensive Planning Requirements, shall follow the submittal and review procedures outlined at 110-12-2-.04(3) through (8) with the following exceptions:

- (a) Only one public hearing must be held, for the purpose of informing the public of the intent to update the work program and receiving suggestions and comments on the proposed update.
- (b) The regional development center will determine, within ten (10) days of submittal, if the short term work program update affects the CIE's compliance with the Development Impact Fee Compliance Requirements:

1. If the regional development center determines that the update does not affect the CIE's compliance with the Development Impact Fee Compliance Requirements, the review process shall omit review by the Department as outlined at 110-12-2-.04(5)(c), and the regional development center shall complete its review and transmit its report of findings as outlined at 110-12-2-.04(5)(d) within 40 days of the date the update was originally submitted to the regional development center for review.

2. If the regional development center determines that the annual Short Term Work Program update may affect the CIE's compliance with the Development Impact Fee Compliance Requirements, the review process shall continue as outlined at 110-12-2-.04(5) through (8).

(c) The regional development center shall maintain a file of annual updates as they are submitted by local governments and shall make them available to interested parties upon request. The regional development center shall notify the Department that the local government has updated its Short Term Work Program in accordance with the requirements for annual Short Term Work Program updates contained in these Development Impact Fee Compliance Requirements.

(10) CIE Amendments:

(a) Proposed amendments to CIEs, as described at 110-12-2-.03(2)(d), Comprehensive Planning Requirements, shall follow the submittal and review procedures outlined at 110-12-2-.04(3) through (8), with the following exceptions:

1. Only one public hearing must be held, for the purpose of informing the public of the intent to amend the CIE and receiving suggestions and comments on the proposed amendment.

2. The regional development center will determine, within ten (10) days of submittal, if the proposed CIE amendment affects the CIE's compliance with the Development Impact Fee Compliance Requirements:

(i) If the regional development center determines that the proposed amendment does not affect the CIE's compliance with the Development Impact Fee Compliance Requirements, the review process shall omit review by the Department as outlined at 110-12-2-.04(5)(c) and the regional development center shall complete its review and transmit its report of findings as outlined at 110-12-2-.04(5)(d) within 40 days of the date the amendment was originally submitted to the regional development center for review.

(ii) If the regional development center determines that the proposed CIE amendment may affect the CIE's compliance with the Minimum Standards and Procedures, the review process shall continue as outlined at 110-12-2-.04(5) through (8).

**Credits**

Adopted May 1, 1997.

AUTHORITY: [O.C.G.A. Sec. 50-8-7](#).

Current with amendments available through May 6, 2021.

Ga Comp. R. & Regs. 110-12-2-.04, GA ADC 110-12-2-.04

---

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.